

Message Text

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PAGE 01 CAIRO 12154 211447Z
ACTION NEA-10

INFO OCT-01 ISO-00 EB-07 EUR-12 /030 W
-----017578 212352Z /15

R 211238Z JUL 77
FM AMEMBASSY CAIRO
TO USDA FAS WASHDC
INFO AMCONSUL ALEXANDRIA
AMEMBASSY ATHENS
SECSTATE WASHDC 7512
USDOC WASHDC

UNCLAS CAIRO 12154

E.O. 11652: NA
TAGS: EAGR, ETRD, EAID, EG
SUBJ: AGENCY REPRESENTATION

REF: (A) FASTO 160 (NOTAL) (B) FASTO 147 (NOTAL)

1. EMBASSY RECALLS IT HAS IN PAST RESPONDED TO USDA QUESTIONS ON WHETHER PARTICULAR LOCAL FIRMS WERE "BONA FIDE AGENTS", EVEN PRIOR TO RE-ESTABLISHMENT OF AG ATTACHE OFFICE IN AUGUST 1976. THIS IS, HOWEVER, A COMPLEX MATTER, WHICH EMBASSY BELIEVES DESERVES RE-EXAMINATION. WE PRESENT FOLLOWING INFORMATION AS BACKGROUND TO PROVIDE USDA WITH BASIS FOR FURTHER COMMENTS AND QUESTIONS WHICH SHOULD LEAD TO RESOLUTION OF ISSUE.

2. UNTIL 1974, AGENCY REPRESENTATION OF FOREIGN FIRMS WISHING TO SELL THEIR PRODUCTS IN EGYPT WAS RESTRICTED, UNDER THE TERMS OF LAW NO. 107 FOR 1961, ESSENTIALLY TO GOVERNMENTAL COMPANIES OR COMPANIES RELATED TO PUBLIC SECTOR ORGANIZATIONS . THUS, UNTIL 1974, ALL AGENTS FOR FOREIGN COMPANIES CAN BE SAID TO HAVE BEEN "CONTROLLED" BY THE EGYPTIAN GOVERNMENT

3. IN 1974, LAW WAS CHANGED AND EGYPTIAN GOVERNMENT PERMITTED PRIVATE INDIVIDUALS AND FIRMS TO ENGAGE IN BUSINESS OF AGENCY
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REPRESENTATION. UNDER PREVIOUS LAW, MOST AGENCY AGREEMENTS WITH FOREIGN FIRMS WERE HELD BY A GROUP OF ABOUT A DOZEN PUBLIC SECTOR TRADING COMPANIES. WHEN LAW WAS CHANGED TO PERMIT PRIVATE PARTICIPATION IN THE AGENCY BUSINESS, THESE FIRMS -- THOUGH NOW FACED WITH PRIVATE COMPETITION-- CONTINUED TO OPERATE. THEY REMAIN A MAJOR FACTOR IN THE COMMERCIAL REPRESENTATION FIELD AND MANY FOREIGN FIRMS CONTINUE TO EMPLOY THEM AS AGENTS.

4. EL NASR IMPORT/EXPORT CO., SUBJECT OF REF. B INQUIRY, IS ONE OF THE LARGE PUBLIC SECTOR TRADING COMPANIES, AND ACTS AS AGENT FOR A NUMBER OF FOREIGN COMPANIES ON A WIDE VARIETY OF PRODUCTS. ARAB FOREIGN TRADE CO. (REF. A) IS IN SAME CATEGORY. IT IS NOT UNUSUAL FOR SUCH PUBLIC SECTOR FIRMS TO REPRESENT SEVERAL FOREIGN COMPANIES WHICH HAVE SIMILAR PRODUCT LINES --I.E. WHICH ARE COMPETITORS.

5. IN THEIR ORDINARY AGENCY DEALINGS, THERE IS LITTLE DIFFERENCE IN PRINCIPLE BETWEEN THE OPERATIONS OF PUBLIC AND PRIVATE SECTOR COMPANIES. BOTH TYPES COLLECT COMMISSIONS FROM THE FOREIGN FIRMS ON WHOSE BEHALF THEY SELL PRODUCTS. WHEN A GOE MINISTRY ISSUES A TENDER, OFFERS ARE REQUIRED, IN MOST CASES, TO BE SUBMITTED THROUGH A REGISTERED COMMERCIAL AGENT, EITHER PUBLIC OR PRIVATE SECTOR.

6. WITH RESPECT TO CERTAIN COMMODITIES, INCLUDING MOST OF THOSE FINANCED UNDER PL-480, SPECIAL CIRCUMSTANCES EXIST IN TERMS OF EGYPTIAN LAW AND PROCEDURES. FIRST, SUCH COMMODITIES (SEE 76 CAIRO A-118 FOR LIST) MAY BE IMPORTED ONLY BY PUBLIC SECTOR COMPANIES. (ALTHOUGH THERE IS SOME QUESTION ABOUT MATTER, IT DOES NOT APPEAR THAT THIS WOULD BE ABSOLUTE BAR TO PRIVATE SECTOR COMPANY ACTING AS AGENT, BUT SERVICES OF A PUBLIC SECTOR COMPANY WOULD HAVE TO BE ENGAGED IN UNDERTAKING THE ACTUAL IMPORTATION.) MOREOVER, MINISTRY OF SUPPLY IS ONLY PERMISSIBLE

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BUYER FOR THESE SPECIAL COMMODITIES. THUS, THE ROLE OF ANY AGENT WHICH A US FIRM MAY ALREADY HAVE IN EGYPT IS RATHER DIFFERENT THAN IN THE CASE OF MOST GOODS.

7. WE HOPE THAT THE ABOVE INFORMATION OFFERS SOME CLARIFICATION OF LOCAL SITUATION, AND WOULD APPRECIATE USDA COMMENTS ON HOW EXISTING PL-480 LEGISLATION WOULD APPEAR TO APPLY TO IT. PLEASE ADVISE.

8. NOTE: RE PARA A, WE ASSUME QUESTION ABOUT BEIRUT SHIPPING COMPANY IN ATHENS IS MEANT BE ADDRESSED BY EMBASSY ATHENS.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, BUSINESSMEN, BUSINESS FIRMS, EXPORTERS, IMPORTERS
Control Number: n/a
Copy: SINGLE
Sent Date: 21-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
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Disposition Comment:
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Disposition Event:
Disposition History: n/a
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Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
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Format: TEL
From: CAIRO
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1977/newtext/t19770735/aaaabdrj.tel
Line Count: 106
Litigation Code IDs:
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Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 95ec6d66-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1795282
Secure: OPEN
Status: NATIVE
Subject: AGENCY REPRESENTATION
TAGS: EAGR, ETRD, EAID, EG, EL NASR EXPORT IMPORT CO
To: AGR
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/95ec6d66-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009